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CHAPTER 7.

Devices of Articulation:

The Theory and Practice of Cooperative Federalism.


Revised Chapter 7.

This revision and expansion of Chapter 7 of the study "Public Policy and Canadian Federalism" was written because a great deal of new material had become available since the original study was completed in the summer of 1965.

*Donald V. Smiley.*  
Donald V. Smiley

Vancouver - April, 1966.





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## CHAPTER 7.

### Devices of Articulation:

#### The Theory and Practice of Cooperative Federalism.

The term "cooperative federalism" has come to be used very frequently in Canadian political debate. Some persons employ the phrase in a very broad sense to emphasize the increasing importance of federal-provincial collaboration in contrast with the older "classical federalism" in which the two levels carried out their respective responsibilities as assigned by the constitution in relative isolation from one another.<sup>1</sup> Within the context of political debate in Quebec, cooperative federalism is defended, or attacked, as an alternative to separatism, the "associate states" alternative and other proposals for more radical and explicit changes in the political and constitutional relations between Quebec and the rest of Canada.<sup>2</sup> In yet another context, cooperative federalism is regarded as the successor to the centralized version of federalism which developed during and after the Second World War, to what the Honourable Maurice Lamontagne has called "tutelary federalism".<sup>3</sup> Although there are significant differences in emphases among those who now use the term, most would probably agree that cooperative federalism embodies the following features.





First, procedures of continuous interaction between the federal and provincial governments rather than constitutional amendment or changing patterns of judicial review are the chief devices by which a continuous redistribution of powers, responsibilities and resources between the two levels is effected. Some of the reasons for the relatively minor role that formal processes of constitutional change have come to play were suggested in Chapter Four. The Honourable Guy Favreau has thus described the new circumstances. "Gone are the days when constant recourse to the courts was hurriedly made to obtain an interpretation that would finally resolve jurisdictional conflicts between the federal and provincial governments."<sup>4</sup> Most of the basic conflicts between the two levels, particularly as these relate to the crucial matters of fiscal sharing, do not lend themselves to judicial determination. Formal constitutional change is almost always sporadic and such change usually works in the direction of delineating the respective powers and privileges of the federal and provincial legislatures rather than articulating their activities. Under the prevailing attitudes it would be regarded by the governments concerned as inappropriate if a dispute of fundamental importance were submitted for judicial determination unless intergovernmental negotiations over a protracted period had failed to result in agreement.





As the conflict between the federal and some of the provincial authorities about the ownership of off-shore mineral rights demonstrates, even under such circumstances as these the judicial settlement of disputes may not be seen by all as legitimate.<sup>5</sup>

Second, cooperative federalism embodies consultations between the provinces and the federal government prior to the latter committing itself to policies directly affecting provincial interests. Unilateral federal actions in such matters were common in the decade after the Second World War, and in 1950 at the height of federal dominance Premier T.C. Douglas of Saskatchewan presented this list of complaints to the Federal-Provincial Constitutional Conference of 1950:

"In the matter of marketing, the latest dominion legislation represents an abandonment by the federal government of its responsibilities with regard to international trade. Having failed to protect the Canadian producer in foreign markets, it has now thrust upon the provinces, without consultation, the responsibilities which it has failed to discharge.

Without consultation with the provinces, it is vacating the field of rental control, after permitting substantial rent increases, and thus thrusting upon the provinces the responsibility of meeting a social crisis.

Without consultation with the provinces, it has announced a comprehensive irrigation scheme, which we now learn must be supported by substantial provincial contributions.





Without consultation with the provinces, it has announced the construction of a Trans-Canada Highway, and it is later found that the provinces will not only have to stand fifty per cent of the cost of construction, but also the entire cost of the right of way.

Without consultation with the provinces, it has decided upon a housing program for which every province must contribute twenty-five per cent of the cost, without regard to its ability to pay.

By these unilateral decisions, the federal government has embarrassed the provinces in respect to their capital programs and has virtually dictated policies to which their consent has not been obtained."<sup>6</sup>

During the period of the dominance of the federal government federal announcement of new grants-in-aid were sometimes made without prior provincial consultation. Such actions understandably disturbed the provinces because in such circumstances their hands were often forced by influences both inside and outside their own administrations to alter their programmes and, usually more importantly, to undertake new financial commitments so that they could take advantage of the federal largesse. The traditions of cooperative federalism as these are now evolving preclude such unilateral federal initiatives. There is, however, no agreement about either the range of matters in respect to which consultation should take place or the circumstances of these discussions. Without altering the traditions of Canadian politics in a very fundamental way, cooperative federalism could not forestall a federal political party from committing itself to initiatives in matters directly affecting the provinces. But there is as yet no clear tradition





as to whether it is more appropriate for a federal government to introduce into Parliament bills providing for activities in which the provinces are directly concerned, with the assumption of course that provincial consultation will occur before the final parliamentary enactment, or whether the better procedure is for the government to ask Parliament to ratify agreements previously reached with the provinces. There is also no agreement as yet about the range of matters in respect to which consultations between the federal and provincial are appropriate and, as we shall see later in this Chapter, the strategy which the Quebec government elected in 1960 has pursued with some success is to extend this range to include every important aspect of federal economic policies, including those which are under the constitution within the exclusive legislative jurisdiction of Parliament. Despite these unresolved differences, federal-provincial collaboration is now regarded as appropriate not only in respect to such matters as the marketing of agricultural products and industrial standards, where under the constitution both levels have responsibilities, but also in respect to other policies where no such obvious sharing exists but where the actions of one government clearly affect the others. Prime Minister Lesage of Quebec stated the new assumptions concisely at his opening statement to the Federal-Provincial Conference of July 1965:





"Sound practice of federalism requires that each government respect the jurisdiction of the other legislative authorities. In an era when interdependence is as pronounced as it is today, however, respect of mutual (legislative) competence is not the only condition for harmony between governments. Thus, even when legislating in fields within its own jurisdiction, each government should be concerned with the repercussions of its decisions on the others' plans and on the orderly conduct of the country's affairs in general. In our opinion, a government may not do exactly as it pleases simply because it has legal authority in a given field. Instead, in the interest of administrative efficiency and the search for genuine solutions, it must see that its actions are compatible with those of the other legislative authorities, and do not infringe on their rights and privileges. In short, the legality of an act should not be the only criterion, it is also important to weigh its timeliness and repercussions."7

Under present circumstances consultation has seemed sometimes to be a one-way street. Although unilateral provincial initiatives can and do complicate federal responsibilities in certain situations, the federal government has not effectively asserted its right to be consulted by the other level. However, in his opening statement to the July Conference in 1965 Prime Minister Pearson did make such a claim.

"We cannot work together if the federal government attempts to encroach on provincial rights. Equally we cannot work together if provincial policies are directed to the erosion of federal jurisdiction and power. We have to proceed by the methods of cooperative federalism, by consultation and cooperation in all matters of mutual concern. Cooperative federalism is not a doctrine that puts all the restraints on the federal government. It does not mean that the federal government should move only after consulting the Provinces while the Provinces accept no similar obligation on their side. Cooperative federalism does not mean that the burden of agreement rests only on the federal government while the Provinces make demands for the withdrawal of the federal government from established lines of action and responsibility."8





Third, cooperative federalism has come to involve interactions between the two levels in respect to the most fundamental aspects of public policy. Cooperative federalism as the term is commonly used in the United States refers to the interactions between the national and state governments through grants-in-aid. In Canada, however, both the norms and procedures of federal-provincial relations include not only collaboration in specialized public functions but also the attempted articulation of policies in fiscal matters and in policies for economic stability and growth.

Fourth, cooperative federalism envisages increasingly more institutionalized structures and processes of inter-governmental relations. There is agreement among observers of Canadian federalism that up until this decade the federal and provincial governments were dilatory in developed effective procedures for articulating their respective activities. As we shall see in this Chapter, there are fundamental differences among the governments concerned about the appropriate institutions for effective federal-provincial relations and in particular about the necessity or otherwise of radically new institutional machinery designed specifically for these purposes. However, there is basic agreement that such relations should come to provide for more continuous high-level interaction than in the past, particularly where basic fiscal and economic policies are involved.





Cooperative Federalism prior to 1945.

Because almost nothing has been written about the institutions and procedures of federal-provincial collaboration prior to the 1930s, it is tempting to suggest that widespread cooperation between the two levels of government is of relatively recent origin. Recent research in the United States has, however, revealed a very large amount of federal-state coordination in respect to particular matters from the earliest days of the Union onward<sup>9</sup> and it is at least possible that such investigations in Canada would show that in the earlier decades we developed a much more diluted variant of classical federalism than is commonly supposed.<sup>10</sup> The thought and practice of the 1930s, however, seem to point up that prior to the Second World War the norms of Canadian federalism were those of the federal and provincial governments carrying out their respective roles as delineated by the constitution in relative isolation from one another with changes in those roles being effected either by constitutional amendment or changing patterns of judicial review. We have not been able to discover any serious consideration during the decade of the Great Depression of the cooperative federalism alternative, the alternative of attempting, in Corry's words, "to turn the flank of constitutional obstacles" by devices of inter-governmental collaboration.





As the Depression wore on it became apparent that the institutions of Canadian federalism were inadequate to the demands facing the country. Almost unanimously, those who wished change saw the formal constitution as the "villain of the piece" and more particularly the tradition of judicial interpretation of the Judicial Committee of the Privy Council. There was a very great amount of debate on a procedure for constitutional amendment and, unlike the situation after 1945, those who supported a new procedure were clearly bent on important substantive changes to enhance the power of the federal government. The judgments of the judiciary that the Bennett "New Deal" legislation of 1935 was ultra vires convinced most reformers, if they needed such convincing, that the traditional interpretation of the constitution failed to give the federal government the powers to deal effectively with the desperate circumstances of the times. The most elaborately formulated statement of this view was made by a Report to the Senate by its Parliamentary Counsel in March 1939 with the conclusion that the B.N.A. Act had in 1896 been "repealed by judicial legislation" and its recommendation that a constitutional amendment be enacted which would in effect direct the Judicial Committee and the Canadian courts to construe the Act in future according to the accepted canons of Anglo-Saxon judicial interpretation.<sup>11</sup>



The Report of the Royal Commission on Dominion-Provincial Relations presented to the Government of Canada in 1940 differed markedly from most of the other schemes for reform made during the previous decade in that it contemplated a solution within the existing division of legislative powers between the Dominion and the provinces. However, the Rowell-Sirois Commission was critical of the existing patterns of federal-provincial collaboration and on this basis made three major suggestions for forestalling collaborative activities between the two levels.

1. The federal government should assume the exclusive responsibility for the relief of unemployed employables. It was in the field of public assistance more than any other that interactions between the federal and provincial authorities had during the Depression been frequent, haphazard and, for all concerned, unsatisfactory.

2. There should be a redistribution of revenue sources, revenues and functions which would permit each province, as it chose, to provide services at average Canadian standards without subjecting its residents to taxation above the Canadian average. This was the master-solution of the Report and its adoption was expected to forestall federal-provincial collaboration in respect to provincial matters on the rationale that some or all of the provinces lacked the financial resources to discharge their constitutional responsibilities.





3. There would be a procedure "by constitutional amendment if necessary" for the mutual inter-delegation of legislative powers between the Dominion and the provinces. This would permit the exclusive responsibility for particular functions to be discharged by one level or the other as an alternative to joint arrangements.

In its general distaste for cooperative federalism the Rowell-Sirois Commission appears to have been very much influenced by J. A. Corry's study "Difficulties of Divided Jurisdiction" undertaken at its direction.<sup>12</sup> Corry studied several kinds of activity in which both the Dominion and the provinces were involved and came to the conclusion "..... Canadian experience so far seems to indicate that administrative performance in these joint activities.....falls short of the standards of reasonably good administration."<sup>13</sup> In the light of subsequent developments in the theory and practice of cooperative federalism, it is significant to see why he judged that by the efficiency criterion alone federal-provincial collaborative arrangements were almost inherently deficient:

1. Officials of different bureaucracies find both their desires to express themselves through their work and their career prospects frustrated by entering into constructive inter-governmental relations. The capable and ambitious official will try to "master the uncertainties which interfere with his control of the situation". One of these uncertainties is the actions of the officials of the other jurisdiction and





he will thus strive to extend his control to all aspects of the joint activity. Further, if the official shows himself to be relatively passive in his relations with the other government he may convey to his superiors, who control his career prospects, that he has lost his originality. Conflicts in joint activities cannot thus be attributed to the "perversity of civil servants" but rather to inherent factors in such situations and are more likely than otherwise to occur when able and zealous officials are involved.

2. It is characteristic of most joint activities that federal and provincial officials will disagree on the objectives of particular public policies and the appropriate means by which these may be pursued. In his analysis of conditional grants Corry asserted, "Hope for harmonious and efficient cooperation depends largely on the discovery of clear-cut objective criteria for measuring the activity -- criteria which command agreement by their clarity. Such criteria are almost impossible to find."

3. When conflict between members of two independent bureaucracies occurs there is no hierarchical superior by whom the dispute can be expeditiously resolved. "The real advantage of unified administration is that it provides a single authority which can break a deadlock and whose very existence is a deterrent to prolonged bickering."



Thus in the period prior to the Second World War there was little disposition to try systematically to overcome the disabilities of the Canadian constitutional structure by federal-provincial collaboration. The prevailing tradition of thought visualized what were regarded as desirable changes in the roles of the two levels being effected necessarily by amendment or changing patterns of judicial review or both. In harmony with its terms of reference, the Rowell-Sirois Commission was somewhat outside this framework of analysis but the Commission rejected cooperative federalism on the grounds that joint activities were almost inherently inefficient. The Green Book proposals presented by the federal government to the provinces at the Conference on Reconstruction in 1945 were the first coordinated set of recommendations for change in Canadian federalism which gave a central role to federal-provincial collaboration.

Post-War Canadian Federalism: The  
Dominance of Programme Collaboration

An exhaustive account of federal-provincial relations in contemporary Canada would include a description of the very large number of formal and informal collaborative arrangements dealing with specific policies and programmes and involving on either a sporadic or continuous basis officials from both levels of government and often representatives of local authorities and private specialists as well. At the more general





level of policy, one might examine the activities of the Dominion Council of Health established by statute in 1919 which consists of the most senior appointed health officials of the eleven governments and which has over the years concerned itself with the most fundamental health matters, at the other end of the spectrum one could observe highly technical discussions between federal and provincial officials concerning the reporting of statistics of agricultural production or the control of forest fires. Many of these interactions take place within the framework of conditional grant arrangements which make almost inevitable the continuous collaboration of officials from both levels involved in particular functions.<sup>14</sup> However, the contemporary mood of most specialists in government and outside is that much is to be gained by sharing knowledge and experiences with those in the same occupational group quite apart from those with whom one works on a week-to-week basis and contemporary federal-provincial relations includes a very great amount of this informal sharing.

The period immediately after the Second World War was particularly propitious for the development of widespread federal-provincial collaboration in respect to particular programmes and projects. For a variety of reasons, the federal government was more responsive than the provincial administrations to pressures for the extension of particular public activities within provincial legislative jurisdiction.





The distribution of tax sources and public revenues between the two levels and the relative prosperity of the times made it appear prudent to the federal authorities that they should assume heavy and continuing responsibilities for provincial matters. It had become a "given" that there was little prospect of constitutional adaptation through amendment or changing patterns of judicial review. The failure of the Dominion-Provincial Conferences of 1941 and 1945-'46 seemed to demonstrate the impossibility of effecting a comprehensive redistribution of powers, functions and fiscal resources through agreement between the federal government and the provinces. There was little development of effective institutions and procedures for the coordination of basic federal and provincial policies either at the ministerial level or at the level of these appointed officials where concerns were broader than that of particular programmes. In such circumstances, the federal system could adjust to the demands made upon it only by piecemeal collaboration in respect to specific and relatively narrowly-defined functions where cooperation was possible in the absence of federal-provincial agreement on matters more comprehensive in scope.

The growth of specialization and professionalization in the federal and provincial bureaucracies was an important element in both projecting the federal government into provincial matters and in providing a base for constructive



inter-governmental collaboration. The federal civil service which emerged from the Second World War was both more competent and more activist than anything the country had seen before and its orientations were compatible with that of the incumbent political leadership.<sup>15</sup> Involvement in a particular public function not only puts officials in possession of a common body of techniques and knowledge but characteristically commits them to common policy preferences - the preferences of correctional officials for rehabilitative methods, of foresters for sustained-yield management, of social workers for general rather than categorical public assistance programmes, of professional economists for measures to maximize the gross national product. Such commitments are of course strengthened when all or most of the officials involved have a common pre-entry training and participate in common professional activities. Thus, within the limits set by the Canadian constitution and the policies of their respective governments, various communities of purpose in respect to particular public activities have developed. These groupings in health, public assistance, resource development, and so on have been of the greatest significance in aiding the federal system to adjust to the demands made upon it. What Seymour M. Lipset has said of bureaucracies generally is relevant to this kind of piecemeal adaptation "Inherent in bureaucratic structures is a tendency to reduce conflicts to administrative decisions by experts, and thus over time bureaucratization facilitates the removing of objects from the political arena. Constant emphasis on





the need for objective criteria as a basis for the settlement of conflicts enables bureaucracies to play a major mediating role.<sup>16</sup> In its discussion of joint activities the Rowell-Sirois Commission on the basis of previous Canadian experience seriously underestimated the future possibilities of constructive federal-provincial collaboration. The argument of the Commission was that except in a few circumstances, like those involving specialized health functions, it was unlikely that the federal and provincial officials directly concerned could agree on criteria for action in such matters, and that because of this the efficient administration of joint activities would be inhibited by conflicts which could be resolved, if at all, only at the political level. This analysis almost completely disregarded the possibility of developing relatively autonomous communities of officials across jurisdictional lines, groups who would find it possible to agree and to collaborate effectively on matters involving broader than purely technical considerations. In the administration of conditional grant programmes particularly, there was in the period after the Second World War the growth at the federal level of the numbers of programme officials concerned with the substantive aspects of jointly financed activities, and the attitudes and interests of these civil servants corresponded closely with those of their provincial collaborators directly responsible for the administration of these functions.





Although the week-to-week collaboration of federal and provincial officials concerned with relatively narrowly-defined activities remains an important element of the Canadian federal system, the trend in the past five years has been toward a structure of control which subsumes these activities to broader considerations. In some cases this development relates to specific policy areas - the discussions surrounding the Report of the Royal Commission on Health Services presented to the federal government in 1964 and the proposed Canada Assistance Act has given an impetus to over-all coordination in these matters - and federal and provincial Ministers of such functional departments as Labour, Welfare, Health and Agriculture now meet at fairly regular intervals where formerly collaboration took place mainly at the middle-levels of the civil services. The contracting-out alternative has caused the grant-in-aid procedure to be considered in terms of more fundamental considerations than those directly related to the individual aided activities. Conferences of the Premiers and Prime Ministers and of groups of Ministers have come increasingly to direct particular committees of officials to carry out specialized studies and to report their findings. Finally, the increasing importance of federal-provincial institutions in the field of fiscal collaboration make it unlikely that in the foreseeable future federal-provincial relations in regard to specific functions will be as insulated from broad policy considerations as was the case in the previous decade.



It is impossible to make any accurate statistical statement of the increasing frequency and importance of federal-provincial and interprovincial interactions. The Director of the Federal-Provincial Relations Branch of the federal Department of Finance in 1965 made an analysis of conferences and committees in seven categories.<sup>17</sup>

1. Federal-Provincial committees as such. Gallant says there are about 100 of these committees and sub-committees, with about 30 of them regional in nature and the others with members from the federal and all the provincial governments. In terms of hierarchical levels there were the following meetings in 1965:

Prime Ministers and Premiers	2
Ministers	13
Deputy Ministers	14
Directors	27
Professional and Technical	65.

2. Federal advisory councils. These are committees constituted under federal statute or order-in-council to advise federal ministers. Such groups (e.g. the Dominion Council of Health and the National Council of Welfare) include representatives from the provincial administrations and sometimes from outside government.





3. Quasi-independent associations. These are bodies made up wholly or largely of ministers and civil servants and are supported by governments but are not federal-provincial bodies in the strict sense of the word e.g. the Canadian Council of Resource Ministers and the Association of Canadian Fire Marshals.

4. Interprovincial conferences. Gallant reports that one compilation lists some 60 formally constituted interprovincial committees. In some cases federal observers attend these conferences.

5. Provincial advisory committees. In some provinces there are provincial committees set up with federal representation to advise on federal-provincial programmes in such fields as Indian Affairs and A.R.D.A. projects.

6. Sub-committees. These sub-committees, usually dealing with technical matters, have a direct reporting relation to some other committees. The Dominion Council of Health, for example, has set up several such groups.

7. Non-governmental associations. These organizations, such as the Institute of Public Administration of Canada and the Canadian Good Roads Association, are formally independent of government but are composed largely or wholly of public officials and are concerned with public policy matters.





The New Directions of Cooperative Federalism:Collaboration in General Policies.

Federal-provincial collaboration in respect to specific programmes and projects can be distinguished from interactions related to more comprehensive public policies. The dominant participants in the former processes are members of programme agencies whose work is concerned with activities in such fields as public assistance, health and hospital insurance, vocational training and resource development. The latter kind of activity involves officials whose responsibilities are less particularistic - Prime Ministers and Premiers and their staff agencies, the federal and provincial Departments of Finance and Treasuries and public organizations concerned directly with economic planning and development. As we have seen, the period between the end of the Second World War and about 1960 was characterized by the dominance of programme collaboration in federal-provincial relations. The devising and implementing of these joint ventures were for the most part unrelated to each other, to broader federal and provincial objectives or to the division of tax sources and public revenues between the two levels; the working of the grant-in-aid device contributed to this particularism. The periodic negotiation of the tax agreements, it is true, was a procedure by which the more general directions of public policies could be resolved in what J.A. Corry has called "tolerable compromises."<sup>18</sup> However,



these interactions, at the non-technical levels of government at least, were of a somewhat sporadic nature and there was neither the will nor the institutional machinery to relate basic federal and provincial policies to each other on a continuing basis.

The development in the 1960s of new agencies and procedures for federal-provincial collaboration at the level of fundamental policy-making has been a response by the governments concerned to these circumstances:

First, the fiscal problem has become more acute for both levels. These new urgencies will be dealt with later in this Chapter.

Second, the interventionist policies in economic matters of both the federal and provincial governments have resulted on an increasing number of situations where the absence of collaboration can result in serious frustrations of the objectives of all the governments concerned. Cooperative federalism as it is evolving is a series of responses to this kind of basic interdependence.

Third, there has been a deepening awareness that the Canadian federal system is in crisis. So long as responsible elected and senior appointed officials could reasonably take the continuing existence of the federation for granted, it was possible for them to regard federal-provincial relations as a relatively technical field which did not merit their sustained concern. This circumstance has now passed.





The latter six months of 1963 was a watershed in the development of federal-provincial policy collaboration. The situation as it evolved was essentially this. The programme of the federal Liberal party in the 1963 general election included several promises about matters related directly or indirectly to provincial responsibilities - promises of a contributory old age pension plan, a municipal development and loan fund, a federal-provincial medical care programme, tax concessions for industries in depressed areas, the establishment of an Economic Council, a Department of Industry and an Area Development Authority. It can reasonably be claimed that the Liberal programme was an extension of the New National Policy which emerged from the Second World War. Resolutions to implement several of the new government's election commitments were introduced into the House of Commons at the Session which began in May 1963. The subsequent objections of some of the provinces to federal initiatives in respect to the proposed contributory pensions and municipal loan fund plans was so vigorous that a conference of Prime Ministers and Premiers was convened on July 26-27. At this meeting the federal authorities quickly agreed under provincial pressure to basic changes in the municipal loan scheme. The communiqué issued at the end of the Conference expressed the agreement of the participants that meetings of the Prime Ministers and Premiers should be held more regularly than in the past and that it was desirable "to establish more





adequate machinery for maintaining federal-provincial contacts between such meetings". The actions of the federal authorities during the Conference and subsequently appear to indicate that they had been convinced in a somewhat dramatic way that the former practice of unilateral initiatives in respect to matters about which the provinces felt a vital concern should be replaced by prior federal-provincial consultations and that more effective procedures of continuing inter-governmental consultation were urgently needed.

At a second Federal-Provincial Conference held on November 26-29, 1963 the topic of "continuing federal-provincial liaison arrangements" was on the agenda. Unlike the practice at previous such meetings, it was agreed that this Conference was to be the first of a series of gatherings and it was decided to reconvene early in the next year. The Conference also agreed that the following joint investigations should be undertaken.

1. A joint study at the official level was to be made of fiscal arrangements and shared-cost programmes and the relations between the two.

2. The federal and provincial Ministers of Agriculture were to examine "proposals to permit the Canada-wide operation of agricultural marketing boards".

3. Discussions on contributory old age pensions were to continue.



4. There was to be an early meeting of the Ministers of Health to discuss hospital costs and other health matters.

5. A federal-provincial working group was to examine the joint operation of welfare programmes prior to further discussions by the relevant Ministers.

6. There was to be a conference at the ministerial level to discuss Indian affairs in May 1964.

The two Conferences of 1963 thus presaged the new circumstances of cooperative federalism in which the Prime Ministers and Premiers were more deeply and continuously involved in federal-provincial relations than before and in which these leaders would meet at relatively short intervals to review matters of mutual concern and to charge more specialized groups at the ministerial and official levels with inquiring into and reporting on particular policies and programmes. It had become apparent at the highest political levels in Ottawa and in most if not all of the provincial capitals that such relations were of crucial importance to the effective governing of these jurisdictions and even to the continued existence of the Canadian federation itself.

The policies of the federal government in the period after the crucial events of the latter months of 1963 illustrate the directions in which cooperative federalism has moved:





1. After some initial disputes, the federal government has consulted with the provinces in designating areas of low employment where new industries are given tax concessions and grants.

2. The federal statute of 1963 establishing the Economic Council of Canada required that body in carrying out its responsibilities to "seek full and regular consultations with appropriate agencies of the governments of the several Provinces".

3. In respect to a matter where there had been several unilateral federal initiatives in the past, Prime Minister Pearson offered at the Conference of November 1963 to cause to be increased the maximum payments in which the federal authorities would share in the three categorical public assistance programmes and the maximum incomes of pensioners if the provinces would agree to these measures.

4. The federal contributory old age pension programme was under continuous discussion with the provinces from the provinces until its provisions were enacted by Parliament in March 1965.

5. The federal government sponsored a meeting at the ministerial level with the provinces a month after the Royal Commission on Health Services presented its Report in the summer of 1964.



6. Early in 1964 the federal Minister of Trade and Commerce convened a meeting of provincial Ministers to invite them to give their views on trade policies and to discuss measures for the coordination of federal and provincial policies in these matters.

7. Detailed discussions regarding contracting-out took place in the spring and summer of 1964 and led to an agreement on this procedure.

8. In the summer of 1965 the provinces were consulted in advance on the Prime Minister's appeal for a slow-down in construction because of inflationary pressures.

9. In January 1966 the federal government accepted the principle that it should to a greater extent than in the past consult with the provinces prior to signing conventions of the International Labour Organization.

The Speech from the Throne read to Parliament on April 5, 1965 contained several references to new federal initiatives in economic and social policy to be undertaken in collaboration with the provinces.<sup>19</sup> It was announced that after further consultations with the provinces there would be implemented a Canada assistance plan for the federal sharing in the costs of comprehensive provincial programmes based on needs regardless of the circumstances which occasioned such needs. The government committed itself to a programme "for the full utilization of our human resources and the elimination of poverty among





our people" and announced its intention to convene a federal-provincial conference in this connection. The federal area development programme was to be expanded after consultation with the provinces. There were to be more aggressive federal policies to assist workers displaced by automation, measures to be taken in collaboration with labour and management and "where appropriate in conjunction with the provinces". Further federal-provincial meetings were to be held for the purpose of evolving measures so that all Canadians would receive the health services they needed regardless of their individual ability to pay. The Speech from the Throne also suggested new federal policies related to major agricultural products to be evolved in cooperation with the provinces. The general direction of federal action in social and economic policies was thus toward a more precise definition of objectives than in the past, a definition which would assist those individuals, areas and groups who had been to a greater or lesser degree by-passed in the general circumstances of prosperity which prevailed since the Second World War. This more selective approach inevitably involved a very high degree of federal-provincial articulation if the federal objectives were to be successfully pursued.



Procedures and Institutions of  
Federal-Provincial Collaboration.

During the past few years the federal government and those of several of the provinces have developed new agencies for dealing with federal-provincial relations at the level of basic policy. These changes are a manifestation of the increasingly important roles of the Prime Ministers and Premiers and their staff agencies and of the elected and senior appointed financial officials in the interactions between the federal and provincial administrations. Although from the 1930s onward students of Canadian federalism have recommended more institutionalized machinery for federal-provincial relations, the governments concerned showed until the 1960s little disposition to move in this direction and, as we have seen, these relations were for the most part dominated by isolated patterns of collaboration in particular programmes and functions and by the periodic renegotiation of the five-year fiscal agreements. The new developments represent the prevailing conviction in government circles that federal-provincial relations are too important to be left to the technicians. A brief account of the development of institutional machinery in the federal and the Quebec and Ontario governments demonstrates the organizational response to the new circumstances.





Federal Government.

A small Federal-Provincial Relations Division was established in the Department of Finance in 1954. The Division became responsible for the implementation of the fiscal agreements with the provinces, acted as a Secretariat for the Federal-Provincial Continuing Committee on Fiscal and Economic Matters after the latter body was established in 1955 and was given several other operating responsibilities in the same field. In the past three years much more elaborate institutional machinery has been developed: - early in 1964 a small Federal-Provincial Secretariat was established in the Privy Council office under the direct supervision of the Clerk of the Privy Council. This agency provides Secretariat services for federal-provincial conferences of Prime Ministers and Premiers, for Cabinet, and other inter-departmental committees dealing with such matters. It is also directed to:

"keep in touch with, review and bring to the attention of the Prime Minister, Ministers or departments any aspects or implications of present or proposed government policies which would be of interest or concern to the governments of the provinces, or which might affect in other ways federal relations with the provinces."

The Secretariat is also charged with providing for the provinces "a central point of contact with the federal government at the official level".



- in the summer of 1964 Dr. A.W. Johnson resigned as Deputy Provincial Treasurer of Saskatchewan to become Assistant Deputy Minister of Finance with his major responsibilities in the field of federal-provincial fiscal relations and a strategic role as The Secretary of the Tax Structure Committee.
- the federal "war on poverty" Secretariat under the direct supervision of the Prime Minister has important coordinating responsibilities in a great many fields of public activities where the provinces have legislative jurisdiction.

The federal machinery is in process of rapid evolution. There is now a Cabinet Committee on Federal-Provincial Relations. At the official level there is a committee of senior appointed officials with representatives from the Prime Minister's and Privy Council Office, the Department of Finance and from other Departments when matters concerning them are under discussion.

Two other federally-appointed groups concerned with basic fiscal and economic policies have also engaged in consultative relations with counterpart provincial agencies.

- the Economic Council of Canada has under its statutory terms of reference consulted with corresponding bodies responsible for advising provincial administrations in the field of economic planning and development.

- the federal Royal Commission on Taxation has been in close touch with counterpart fiscal commissions established by most of the provinces.





Quebec.

A Department of Federal-Provincial Affairs was established in 1961. Prime Minister Lesage has been Minister of the Department since its creation. His Deputy, Mr. Claude Morin, has played a strategic role in policy relations with the federal government and in inter-governmental groups dealing with various aspects of federal-provincial matters.

Ontario.

A small research group, the Intergovernmental Relations Branch, was a part of the Department of Economics established by statute in 1956. In 1956 this Branch was transferred to the Treasury Department and came to be known as the Research and Statistics Branch with responsibilities in respect to federal-provincial and provincial-local financial relations and for preparing the government's annual budget statement. A major change was made in 1965 with the appointment of Mr. Ian Macdonald as Chief Economist of the Department of Economics and Development with major responsibilities for coordinating research in federal-provincial relations and as a senior policy advisor to the government of Ontario in this field.



Institutions and Procedures for Coordinating  
Federal and Provincial Fiscal Policies.

The fiscal problem in Canadian federalism has had several interrelated elements:

1. The sharing of tax fields between the federal and provincial governments.
2. The rates of federal and provincial taxation in tax fields which both occupy.
3. The distribution of federal revenues beyond those needed for functions with the legislative jurisdiction of Parliament among the provinces and local authorities.
4. The coordination of the taxation and expenditure policies of all governments in the interests of economic stability and growth.

Beside these elements the current efforts in federal-provincial fiscal relations are directed toward attempts to secure agreement on major expenditure-priorities for the period 1967-'72.

In this decade the fiscal relations of governments in Canada have become more crucial than ever before for the continuing stability if not the existence of Canadian federalism. The constantly increasing proportion of public expenditures made and of the public debt held by provincial and local governments have made federal fiscal and monetary policies





less effective than before in ensuring economic stability and growth unless the other levels pursue complementary policies. The reforms undertaken by the government of Quebec are very expensive and its demands for fiscal autonomy are insistent. The demands for higher public expenditures on such matters as education, medical services, welfare, roads, urban renewal and resources development are of such dimensions that even in a prosperous economy they cannot be met without increases in the rates of taxation and in such circumstances pressures on one level are almost immediately transmitted to demands on one or both of the others. Because of these secular forces at work, it is reasonable to suppose that the country will pay a very heavy price in terms of economic growth and stability and conflicts among governments will become intolerably severe unless more effective means than those previously existing are found to ensure at least minimum measures of inter-governmental fiscal collaboration.

There was little progress made in establishing effective machinery for federal-provincial fiscal collaboration in the decade after the Second World War. At the Federal-Provincial Conference on Reconstruction Premier Drew of Ontario pressed for a continuing "Dominion-Provincial Economic Board" of technical advisers appointed by both levels with its major responsibilities to be in the fiscal field<sup>20</sup> and in succeeding years both the Ontario government and those of some of the other provinces made similar proposals. The federal government remained cool to such suggestions and may have been



under the kind of apprehension against a "super-Cabinet" voiced by Prime Minister King in 1935. The continuing prosperity of the nation and the sporadic nature of the renegotiation of the tax agreements every few years made the need for federal-provincial coordination in fiscal matters less urgent than it later became.

The Continuing Committee on Fiscal and Economic Matters was established by action of the Federal-Provincial Conference of 1955. There appears to have been two influences at work toward the creation of such a body. The disadvantages of inadequate preparatory staff work for the intermittent meetings of ministers had become recognized. Furthermore, there was seen a need for more institutionalized channels for transmitting opinions and information between the two levels. The press communique issued by the Conference described the Continuing Committee's role in the following terms:

"By general agreement the Conference established a committee of federal and provincial officials to meet from time to time to exchange information and examine technical problems in the field of federal-provincial fiscal and economic relations. Representation on the committee will be designated by the Prime Minister or Premier of each government respectively and the chairman will be designated by the Prime Minister of Canada. The Committee will not take collective action but each of its members will report to his own government on the subjects discussed."

The Committee has generally met twice a year. It is usually chaired by the federal Deputy Minister of Finance and the provincial representatives are the Deputy Provincial Treasurers





or their counterparts. Secretariat services are provided by the Federal-Provincial Relations Division of the federal Department of Finance. A former member of the latter agency has thus described the Committee:

"Much of the Committee's work is concentrated in the areas of concurrent or overlapping jurisdiction and administration. Since the members are at the deputy minister level they are concerned with 'top level administration which is sometimes almost indistinguishable from policy questions'. The committee members agree on facts, clarify problems, discuss memoranda submitted by members, but make no independent decisions, take no votes, exercise no executive powers as a committee, do not lobby as a body and do not bind their principals in any way. They do, however, pursue a consensus of views, and a collective judgement, indulge in cooperative studies, and participate in the fiscal discussions that constitute the bulk of their daily responsibilities."<sup>22</sup>

On at least two occasions the Committee has been charged with special studies - in 1959 to report on the rationalization of the accounting and reimbursement procedures related to shared-cost programmes and in 1964 to work out the general directions of the studies to be undertaken by the newly-created Tax Structure Committee and the methods and assumptions governing the preparation of these reports. As well as its responsibilities in the field of fiscal relations, the Continuing Committee has been a useful channel for sharing information and opinions about economic circumstances and economic policies and at each meeting members report on the economic situations in their respective jurisdictions. Most importantly of all, the activities of the Committee have brought the senior appointed



financial officials to the point where they know each other and appreciate each other's problems.

A Committee of Provincial Treasurers and Ministers of Finance was constituted in 1959. This group met twice in that year but not again until the fall of 1963. On the latter occasion it was constituted as a sub-committee of the Federal-Provincial Conference to discuss the fiscal and economic outlook for the coming year and was similarly convened in the next two years. Apparently in the last meeting the Ministers discussed the perspectives and policies of their respective governments with a greater degree of frankness than ever before.

The establishment of the Tax Structure Committee at the Federal-Provincial Conference of October 1964 was a new departure in the evolution of fiscal coordination. The Committee was to be chaired by the federal Minister of Finance, include two other federal Ministers and the Provincial Treasurers or Ministers of Finance. The Committee is charged with reporting early in 1966 to the Conference which established it on the following matters:

1. Trends to be expected during 1967-72 by the federal government, the provinces and the municipalities, taking into account the broad priorities likely to be accorded by governments to expenditures on major programmes that will compete for available funds.





2. The problems involved in financing these expenditures and their relationship to the economic circumstances to be expected, the probable levels of costs of public services and facilities, and the prospective levels of government debt.
3. The general policy to be followed in respect of shared-cost programmes during the period 1967-72.
4. The tax fields that should be used exclusively by the Federal Government and by the provinces and municipalities, and the fields in which joint occupancy is desirable.
5. The arrangements to be made in respect of jointly-occupied tax fields.
6. The relation of equalization grants to the fiscal arrangements and fiscal capacities of the provinces, and the best equalization arrangements for the period 1967-72.
7. Future inter-governmental liaison on fiscal and economic matters.
8. Other related matters.

The Tax Structure Committee is unique in the development of federal-provincial fiscal relations in several ways:

First, it has been given the collective responsibility to recommend policies of crucial importance to the Conference of Prime Ministers and Premiers. It was explicitly asserted in the terms of reference of the Continuing Committee on Fiscal and Economic Matters that this body would have no such corporate role and that the individual members would report to their respective governments.



Second, the Committee is charged with the task of devising a fiscal and economic settlement much broader in scope than the previous fiscal agreements concluded from 1942 onward. These agreements related only to a limited field of tax sources and did not explicitly take into account shared-cost programmes or the expenditure-priorities of the various governments.

Third, the Committee is proceeding by much more sophisticated staff work than has accompanied federal-provincial relations in the past. Each government has made expenditure and revenue projections until 1972 according to common techniques so that these figures for all jurisdictions will be comparable. The Committee, as opposed to previous such bodies, has a working instead of a recording secretary and has a small technical Secretariat working in Ottawa under its direction.

It is impossible to make any evaluation of the prospects of the Tax Structure Committee in discharging the responsibilities assigned to it. Those involved in its work are hopeful that the agreements already reached on basic economic assumptions and the availability of comparable revenue and expenditure projections will tend toward restricting the conflicts between the federal and provincial governments. All the governments are aware of the serious consequences of failure to agree on some very fundamental matters. The





senior appointed officials are involved in a process of sustained collaboration and have come to know each other and each other's problems very well. On the other hand the terms of reference of the Committee charge it with finding agreement on matters of the most basic political choice for all eleven governments, particularly as these relate to expenditure priorities, and in regard to such matters these governments can be expected both to have not easily reconcilable objectives and to be somewhat reluctant to surrender their freedom of action.

#### Policy Conflicts in Federal-Provincial Relations.

The federal system must, if it is to survive, evolve procedures for bringing about tolerable compromises in matters where the interests of the federal authorities and those of one or more of the provinces conflict. The most intractable of these conflicts are "real" in the sense that they are for the most part imposed by the differing responsibilities that federal and provincial officials have respectively assumed and cannot be wished away by incantations against the alleged irrationalities or perversities of these men. More than at any time since Confederation, the federal government and the provinces now confront each other in areas of public activity where each has explicitly formulated policies and more than in the past each is able to frustrate the other. On the basis of past events and current developments federal-provincial disagreement may be expected in respect to such matters as these:



1. The policies of the federal government and the provinces may differ in respect to the appropriate degree of the mobility of labour and capital within Canada and public policies encouraging or limiting such mobility.

2. In some cases provinces may desire closer integration with contiguous areas of the United States than is compatible with the economic objectives of the federal government.

3. Some of the provinces and the federal government may put different priorities on economic development as against price stability.

4. In respect to certain kinds of capital expenditures the primary concern of the federal government may be the impact on employment and income where the provinces are chiefly concerned with the service needs for roads, schools, hospitals and other amenities and, in some cases, with the continuing financial stability of local authorities who borrow to make such expenditures.

5. Some of the provinces may work toward the development of more autonomous provincial or regional economies than are deemed consistent with federal objectives.

6. The federal government and the provinces may differ on the degree of inter-provincial or inter-regional equalization it is possible or desirable to effect and the appropriate federal measures to be implemented to this end.





7. The federal government and the provinces may differ about particular federal measures which benefit some areas but where other areas are either not helped or adversely affected by such measures.

8. Provinces may wish to enter into patterns of trade, investment and other relations with foreign nations inconsistent with economic or non-economic objectives of the federal government.

9. Federal policies for economic development in areas where income and employment is low may conflict with provincial regional development plans.

#### Interprovincial Cooperation.

There has been little systematic study of inter-provincial relations in Canada.<sup>23</sup> There are it seems many instances of inter-provincial cooperation for limited purposes and undoubtedly the increasingly frequent interactions of provincial officials in the federal-provincial context facilitates such collaboration. It is only since the beginning of the annual Premiers' Conferences in 1960, however, that the provincial leaders have had a forum in which problems of common interest are discussed.



In his opening statement to the 1960 Federal-Provincial Conference Prime Minister Lesage asserted that "the provinces share with one another an increasing number of common problems that they could profitably study together and also, we hope, solve together."<sup>24</sup> Because of this, the Quebec government would extend an early invitation to the Premiers to convene to study these problems and to decide whether it would be appropriate to "establish inter-provincial relations on a permanent basis". The Quebec hope was that this invitation would be accepted and that in the future "the provinces will be able to prepare, at first in collaboration with one another and then in collaboration with the Federal Government, long term solutions which, while effectively settling problems, will also maintain the balance in our federation".<sup>25</sup> The first inter-provincial conference in recent years met on Dec. 1-2, 1960 and in succeeding years meetings have been held at the invitation of different provinces each August. Prime Minister Diefenbaker was invited to attend the first conference but declines to do so and the communique at the end of the meeting expressed the hope that in the future a federal Cabinet Minister might come. This has not happened but at the first and succeeding meetings the federal government has sent appointed officials as observers, up until 1963 the Head of the Federal-Provincial Relations Division of the Department of Finance and in 1964 and 1965 the Assistant Deputy Minister of Finance whose chief responsibilities are with fiscal relations and the Head of the Federal-Provincial Secretariat in the Privy Council Office.





The Premiers' conferences are held in private and it is possible to discover the topics under discussion only through newspaper reports and the brief communiqués issued at the end of each meeting. Some of the matters under review have been the financing of schools and hospitals, the coordination of retail sales tax collections, projects for the Centennial of Canada celebration, provincial policies of giving preferences to provincial firms in bidding for government contracts, Indian affairs, off-share mineral rights, uniform regulations for motor vehicle insurance and the reciprocal recognition of truck licences and the coordination of educational standards and curricula. Two collaborative projects of considerable significance have resulted from the Premiers' Conferences:

First, at the 1963 meeting in Halifax the provincial leaders approved in principle a proposal for the inter-provincial exchange of civil servants. This proposal originated with the Institute of Public Administration of Canada and is to be implemented in cooperation with that organization.

Second, in January 1965 representatives of all the provinces except Newfoundland, Prince Edward Island and New Brunswick met with federal officials in Toronto to discuss the possibilities of uniform and reciprocal legislation relating to private pensions plans. The communiqué issued at the end of the meeting told that "general technical agreement" had been reached among the provinces in attendance in respect to their future pensions



legislation. These matters related to the solvency of private pensions funds, provisions for vesting and locking-in employer contributions and reciprocal agreements so that the registration, inspection and audit of each private plan need be carried on by only one province.

The Premiers' meetings are very informal.<sup>26</sup> In contrast with the Federal-Provincial Conferences of heads of government, the provincial leaders generally attend with not more than two advisers each. Despite what seems to have been the original hopes of the government of Quebec, there has been a profound reluctance on the part of most if not all of the other provinces to try to reach agreement on matters of federal-provincial concern for subsequent discussion with the federal authorities. Neither has there been any support for the establishment of more formal inter-provincial machinery. The Premiers' meetings have undoubtedly provided a useful forum for the discussion of common problems and to a limited degree have been a vehicle for reaching agreement on specific matters of mutual concern. However, it is unlikely in the foreseeable future that the major decisions facing Canadian federalism will be removed from the context of federal-provincial relations.

In both the Atlantic and Prairie Provinces there has been progress toward inter-provincial cooperation in dealing with the problems of these regions:





First, there is a well-established tradition of collaboration in the Atlantic Region at both the official level and that of private associations who work in close collaboration with the governments involved.<sup>27</sup> The Atlantic Provinces Economic Council, a private body, prepares research studies, makes representations to the federal government on behalf of the region, organized trade fairs and trade missions and publishes the Atlantic Provinces Statistical Review. The Premiers of the four provinces have met annually since 1956 and have gone some distance in finding agreement on a common regional viewpoint in their dealings with the federal authorities. The economic difficulties of the region and the small size of each of its provinces has resulted in a more extensive pattern of inter-provincial cooperation both in governmental institutions and other organizations than prevails elsewhere in Canada.

Second, in October 1965 the Prairie Economic Council was established by the Premiers of Alberta, Saskatchewan and Manitoba. The Council is to meet at least every six months and is to consist of the Premiers assisted in each case by another Cabinet minister. Among the matters dealt with at the first meeting were the following:

1. An agreement to abolish provincial preferences on public purchases and contracts.



2. Certain studies of the Saskatchewan - Nelson Basin.
3. Measures toward the expansion and greater utilization of the Port of Churchill.
4. Agreements toward coordination in higher education, particularly as this bore on "newly developing fields and discipline".
5. Measures toward eliminating discriminatory practices affecting inter-provincial trucking.
6. Measures relating to regional tourist development, an inventory of provincial policies in the industrial and natural resource fields and the wider use of certain specialized health facilities in Winnipeg.

It thus seems that on its initial aspects at least inter-provincial cooperation on the Prairies will be less oriented toward presenting a common regional front to the federal government than has been the case in the Atlantic Provinces.<sup>28</sup>

#### Cooperative Federalism and the New Quebec.

The directions taken by the Quebec administration which came to power in 1960 have been of crucial importance for the development of federal institutions in Canada. In order to understand the objectives and strategies in federal-provincial relations of the political leadership of the new Quebec it is useful to say something about the previous administration.





The Duplessis government waged a stubborn battle for provincial autonomy. It opposed the centralized solution presented to the Federal-Provincial Conference on Reconstruction, it refused to cooperate in several federal grant-in-aid programmes, it forbade the Quebec universities to accept federal per capita grants from 1952 onward, it opposed unilateral amendments to the constitution such as those effected by the federal authorities in 1943, 1946 and 1949, and it consistently challenged the appropriateness in peace-time at least of federal income taxes and succession duties. Provincial autonomy was one of the most influential elements in the electoral appeal of the Union Nationale.<sup>29</sup> On the other hand, this strategy was not productive of results in restricting the growth of federal influence, apart from the partial victory of Mr. Duplessis in 1954 when after a prolonged struggle with the federal authorities the permissible rebate on the federal personal income tax for residents of a province with its own tax was raised from 5 to 10 per cent. The reasons for this failure are complex. Fundamentally, however, the defect in the provincial strategy was that the government of Quebec opposed centralization on dogmatic constitutional grounds and failed to use the effective range of provincial autonomy for positive purposes. The extension of federal power was not effectively challenged precisely because in this period the federal government was more responsive than the province in meeting urgently felt social and economic needs.



In contrast, the incumbent Quebec administration is more aggressively interventionist than any provincial government has ever been in Canadian history. It proceeds on the assumption that only by coordinated and sophisticated provincial activity in respect to a wide range of social and economic matters can the French-Canadian community thrive. This circumstance imposes a demand on Canadian federal institutions to which they have never before been subjected and raises a new set of issues in the political relations between the two cultural communities.<sup>30</sup> The defence of provincial autonomy has very different consequences in respect to Quebec or elsewhere when the province concerned pursues interventionist policies over a broad range of social, cultural and economic matters than when the scope of provincial action was a much narrower one.

There are pressures for provincial autonomy in four directions supported by the Lesage administration:

First, there is the demand that the federal authorities cease their involvement in matters within the legislative jurisdiction of the provinces as defined by the constitution. Mr. Lesage gave this rationale at the Federal-Provincial Conference of November 1963:





".....we must exercise constant vigilance. Nobody in Quebec believes that a given measure -- aid to municipalities, the contributory pensions programme, or federal aid to technical education, for example -- can, in itself, lead French-Canada to assimilation by the English-speaking majority. Nor does anyone believe that any of these measures, taken simply, is of a nature to threaten our entire cultural heritage. However, we must be systematically opposed to any federal move, whatever it may be, that reduces, in fact, or attacks the field of provincial jurisdiction. We absolutely cannot, even if it concerns a question which appears to be only a secondary one, remain passive in the face of federal initiatives which we judge to be detrimental to the exercise of powers entrusted to the provinces. In fact, it is the whole of the measures that must be considered, and it is against each of the items comprising the whole that we must be opposed, because each item is a threat to the autonomy of the provinces, a threat which constitutes a precedent which is later on invoked to justify further threats of increasingly detrimental effect."<sup>31</sup>

The contracting-out procedure which was analyzed in Chapter Five goes some distance in meeting this dimension of Quebec's demands for autonomy. However, the current thought and policy of the government make it likely that there will be new pressures for federal withdrawals from such fields as family allowances and certain aspects of cultural affairs and the provincial administration apparently believes that in the future contracting-out should not involve any obligation to expend the fiscal equivalent on the service in question or to conform to country-wide standards.



Second, Quebec has pressed both for an increased share of the direct tax fields and for higher federal unconditional grants. The programme of reform to which the province is committed is very expensive -- between 1955 and 1965 Quebec expenditures increased 270 percent, more than those of any other province, and the direct provincial debt increased 120 per cent between 1954 and 1963.<sup>32</sup> The argument that has often been used by the government is that the centralized system of access to the sources which still prevails is a legacy from the war and immediate post-war period when the most important public needs were met by the federal authorities but that under the existing circumstances those matters dealt with by the provinces must have priority.

Third, the Quebec government has demanded that it be consulted in respect to important federal economic policies. At the Federal-Provincial Conference of November 1963 Mr. Lesage asserted:

"....the provinces should always be consulted by the federal government each time the latter wishes to effect policies which could have a repercussion on the economy of the provinces. Actually there are few economic problems which are exclusively federal in their bearing. Economic policy measures almost always influence the provinces. Consequently, the provinces can no longer be satisfied with a passive role in such matters, nor can they resign themselves to suffer the consequences of unexpected arbitrary federal decisions in which they have had no voice."<sup>33</sup>





Mr. Lesage more specifically demanded that the provinces "should have their voice in determining tariff structures, transportation and even the monetary policies of Canada" and this should come through participation in "permanent Federal-Provincial organisms instituted for this purpose". The increasing involvement of the Quebec government in economic direction and control brings about a very large number of situations in which provincial objectives can be frustrated by the inappropriate policies or actions of the federal government. Out of this circumstance has come the Quebec demand . to be consulted by the federal authorities in respect to a very broad range of matters.

Fourth, the Quebec Government has asserted the right to participate directly and without federal control in international relations where these relations concern matters within the legislative jurisdiction of the provinces. Under the Canadian constitution as judicially interpreted the power to enact legislation implementing treaties or other international agreements follows the normal lines of delineation contained in Sections 91, 92, 93 and 95 of the British North America Act i.e. Parliament cannot extend its jurisdiction to include what would otherwise be provincial matters on the basis of a claim that the projected legislation relates to some international arrangement. The position of the Quebec Government respecting this aspect of the constitution was articulated by the Honourable Paul Gérin-Lajoie in April 1965 "...there is no reason why the



right to implement an international agreement should be dissociated from the right to conclude this agreement. This is a case of two essential steps in the one, single operation."<sup>34</sup> The practical consequences of this point of view were that the federal authorities should cease to "exert a kind of supervision and adventitious control over Quebec's international relations" and that Quebec should participate directly in international bodies - presumably like UNESCO and WHO - dealing with matters under the legislative jurisdiction of the provinces. The justification for the assertion of the "personnalité internationale" of Quebec was given succinctly by Mr. Gérin-Lajoie in an interview to Le Devoir printed in Le Devoir of May 1, 1965:

".....le gouvernement fédéral du Canada s'est montré incapable d'établir un contact étroit entre l'étranger et la communauté canadienne-française. Pour des raisons démographiques et historiques, le gouvernement fédéral représente une entité plus anglophone que francophone. La situation géographique de notre pays, les liens économiques étroits qui l'unissent à son puissant voisin du sud, sa participation soutenue aux activités du Commonwealth contribuent à orienter son action plus naturellement en fonction des préoccupations du monde anglo-saxon. Aussi est-ce surtout par le seul gouvernement francophone d'Amérique continentale, celui du Québec, que l'on peut établir un contact réel et fécond avec la collectivité qu'il représente.

J'ajouterai que le gouvernement fédéral, dans sa politique extérieure, s'est montré moins respectueux de la dualité canadienne que dans sa politique intérieure, ce qui n'est pas peu dire."





The Quebec Government elected in 1960 has pursued its substantive objectives in federal-provincial relations with sophistication and a very high degree of success. The essential strategy of the government has been to attempt to extend its range of effective discretion by political and administrative means rather than oppose the federal authorities on dogmatic constitutional grounds. In a revealing speech in the Legislative Assembly of Quebec on February 11, 1966 Prime Minister Lesage spoke in these terms of the alternative strategies:

".....le réalisme est une condition de succès dans les relations fédérales-provinciales. Mais d'abord quelles sont les attitudes en présence. A ce sujet, on peut chez nous distinguer en gros deux attitudes. L'attitude formaliste qui met l'accent sur les cadres juridiques qui doivent déterminer les relations entre le Québec et le reste du Canada.

L'attitude pratique, ou si l'on veut fonctionnelle, qui met l'accent sur les moyens de tout genre grâce auxquels le Québec pourra s'affirmer pleinement.

En vertu de la première attitude, on oriente exclusivement ses efforts vers l'action constitutionnelle et on accorde une importance exagérée à des questions juridiques. Ainsi, on décide a priori que pour s'épanouir vraiment, le Québec doit ou bien être séparé du reste du pays, ou bien être un Etat associé, ou bien jouir d'un statut particulier par rapport aux autres provinces. Et cela décidé, a priori, on utilise la plus grande partie de son énergie à définir des mots et à discuter de concepts théoriques. C'est là, à mon sens, une attitude idéaliste qui satisfait ou qui peut satisfaire l'esprit, mais qui ne peut pas être efficace, car elle risque constamment de perdre de vue la réalité.



L'attitude pratique de son côté est fondée sur le point de vue que le Québec peut s'affirmer par une action économique, sociale, politique, administrative et constitutionnelle. Selon les circonstances, l'accent est mis sur l'un ou l'autre type d'action. Aucun exclut les autres ou ne leur est a priori supérieure. La vie en société est trop complexe pour qu'il existe une seule solution à tous les problèmes. Ceux qui ne pensent qu'à un type d'action (constitutionnelle, sociale, économique, administrative) peuvent être amenés à négliger les autres. De cette façon alors, ils rendent plus aléatoire le succès de leurs efforts. Il faut donc toucher à tous les aspects et ne pas s'attacher théoriquement à des concepts dans un cadre ou dans un champ donné ..... le gouvernement actuel du Québec a choisi l'attitude pratique."<sup>35</sup>

The decision of the Government of Quebec that the Fulton-Favreau formula for constitutional amendment should not be submitted to the legislature of the province for approval can reasonably be interpreted as a conviction on the part of the administration that for the immediate future at least Quebec could advance its interests effectively within the existing constitutional framework. The previous Quebec defence of the formula had been partly on the grounds that it would facilitate substantive amendments to the constitution desired by the province. If it is assumed that the absence of a new amending procedure will make such amendments less likely than otherwise, the current Quebec position can be viewed as one which does not regard explicit constitutional changes as being urgent.





The Quebec Government has acted on the assumption that its objectives in its relations with the federal authorities and those of the other provinces can best be pursued through the institutionalization of inter-governmental collaboration. Three kinds of organizations have at one time and another been proposed by the Quebec administration.

First, at the Federal-Provincial Conference of 1960 and subsequently the government suggested that there be established a federal-provincial secretariat financed and controlled by the participating governments.

Second, the Lesage administration at the 1960 Conference recommended regular meetings of provincial leaders and in general more permanent and institutionalized machinery for inter-provincial cooperation.

Third, at the Federal-Provincial Conference of 1963 Prime Minister Lesage requested that there be established machinery by which the provinces might participate in the framing of federal transportation, tariff and "even" monetary policies. The Quebec government has had a pronounced predilection in inter-governmental relations for "cooperation at the summit". There is it appears a pronounced suspicion of functional relations between the two levels outside a framework of articulation on basic policy matters. In speaking of economic coordination at the 1963 Conference Mr. Lesage asserted "The present policy of making decisions behind hermetically closed



doors in the different sectors of the government is no longer at all acceptable."<sup>36</sup> Professor F.-A. Angers on his comments on the establishment of the Quebec Department of Federal-Provincial Relations in 1961 asserted what appears to be the view of the government of the province in respect to functional interactions between the two levels:

"The coming into being of such a Department will, without doubt, give an altogether new character to relations between the Quebec Government and the government at Ottawa and of the other provinces. Up to now, it was on the technical level that cooperation was established out of necessity between the different provinces. Within the limits of a more or less clearly defined policy according to each case, the superior officers and expert technicians of the various departments concerned correspond among themselves and meet in conference to determine standards or establish rules to coordinate efforts, whenever such steps are deemed necessary. In many instances, when a well-defined policy is not dictated by the governments themselves, it is these officers and technicians who, for all practical purposes, frame policy. In these circumstances there is always the risk of the policy being drawn up to meet urgent needs or to satisfy purely administrative considerations. Lacking more precise ideas, the Minister automatically ratifies the decisions taken by his officers. From now on, a Minister and a qualified staff will examine the policy-making aspects of inter-governmental relations in Canada. They will see that problems are faced as a consequence of principles or rules of policy. They will have technicians implementing provincial policy rather than abandoning policy to technical considerations."

37

The Department of which Professor Angers was speaking is an institutional recognition of the Quebec distrust of piecemeal functional relations between governments outside a basic policy framework and a predilection for conducting inter-governmental affairs in a quasi-diplomatic fashion. Prime Minister Lesage has been Minister of Federal-Provincial





Relations since the establishment of the Department, as well as being Minister of Finance. His Deputy, Mr. Claude Morin, and the small but highly-trained staff of officials in the Department have no precise counterparts in the federal or the other provincial administrations. The "style" of federal-provincial relations as carried on by the Quebec government is thus significantly different than that prevailing elsewhere. In both the federal and the other provincial governments there is a tradition never so firmly established in Quebec that federal-provincial relations at the level of basic policy are in the main the concern of treasury and finance departments. Functional relationship between specialized Quebec agencies and their provincial counterparts have in many cases been less close than is the case in the other provinces and some further attenuation of these relations may come if new contracting-out arrangements are implemented. Most importantly perhaps, the incumbent government of Quebec, alone of the provincial administrations, pursues provincial autonomy for cultural and ideological reasons as a generalized value unrelated in any direct way to particular policies of a specialized nature.



NOTES.

1. J.A. Corry "Constitutional Trends and Federalism" in Evolving Canadian Federalism, A.R.M. Lower, F.R. Scott, et al, Duke University Press, Durham, N.C., 1958, pp. 92-125 and J.R. Mallory "The Four Faces of Federalism" in The Future of Canadian Federalism, edited by P.-A. Crepeau and C.B. Macpherson, University of Toronto Press, 1965, pp. 3-15 and particularly pp. 9-11.
2. The Honourable Jean-Luc Pépin has given the most systematic analysis from this point of view. See his speech "Le fédéralisme coopératif" in Le Canada Face à L'Avenir", Conférence annuelle de l'institut Canadien des affaires publiques (1964), Les Editions du Jour, Montréal, 1964, pp. 113-124.
3. Various speeches given in the past three years by Mr. Lamontagne and the Honourable Guy Favreau have emphasized this theme. Two former Progressive-Conservative ministers have claimed credit for their party in initiating these procedures with special reference to the Council of Resource Ministers. See the speech by the Honourable Walter Dinsdale, House of Commons Debates, May 14, 1964, pp. 2878-2881 and the speech by the Honourable Allen Hamilton at Provencher, Manitoba, October 21, 1963. (mimeo.)
4. Speech "Rebirth through Reason: Cooperative Federalism", given on Feb. 7, 1965 to the Chamber of Commerce, Matane, Quebec. (Mimeo. translation), p. 8.
5. For the background of this dispute see E.R. Black, "Oil Offshore Troubles the Waters", LXXII Queen's Quarterly, (Winter 1966), pp. 590-603.
6. Proceedings, p. 39.
7. Statement (mimeo.), p. 26.
8. Statement (mimeo.), p. 3.
9. Daniel J. Elazar, The American Partnership: Inter-governmental Cooperation in the Nineteenth Century United States, Chicago, University of Chicago Press, 1962.
10. The Dominion Council of Health has been meeting regularly since it was established in 1919 and the Canadian Association of Administrators of Labour Legislation since 1938.





11. King's Printer, Ottawa, 1939, particularly pp. 7-14.
12. King's Printer, Ottawa, 1939.
13. p. 8.
14. See Donald V. Smiley, Conditional Grants and Canadian Federalism, Canadian Tax Paper No 32, Canadian Tax Foundation, Toronto, 1963, Chapter III.
15. See J.G. Hodgetts, "Liberal and Bureaucrat", Queen's Quarterly, Summer 1955, p. 182 and also John Meisel "The Formulation of Liberal and Conservative Programmes in the 1957 Canadian General Election", XXVI Canadian Journal of Economics and Political Science, (Nov. 1960).
16. In Sociology Today, Edited by Robert K. Merton, Leonard Brown and Leonard S. Cottrell, New York, 1959, p. 102.
17. Edgar Gallant, "The Machinery of Federal-Provincial Relations", VIII Canadian Public Administration, No. 4, (December 1965), pp. 515-526.
18. "Constitutional Trends and Federalism", op. cit., p. 120.
19. House of Commons Debates, pp. 1-3.
20. Proceedings, p. 239.
21. See A.R. Kear "Cooperative Federalism: A Study of the Federal-Provincial Continuing Committee on Fiscal and Economic Matters", 6 Canadian Public Administration (March 1963), pp. 43-56.
22. Kear, op. cit., p. 50.
23. See, however, Richard Leach, "Inter-provincial Cooperation", 2 Canadian Public Administration (1959), pp. 83-91 and J.H. Aitchison, "Inter-provincial Cooperation" in the Political Process in Canada. Essays in Honour of R. Macgregor Dawson, J.H. Aitchison, Ed., Toronto, 1963, pp. 153-170.
24. Proceedings, p. 126.
25. Ibid., pp. 126-127.
26. Premier Smallwood of Newfoundland gave as his reason for not attending the 1965 Conference in Winnipeg that the meetings should be held by the government leaders without their advisors.



27. See Guy Henson "Voluntary and Official Cooperation in the Atlantic Provinces", in The Idea of Maritime Union, Report of a Conference sponsored by the Canadian Institute on Public Affairs and Mount Allison University, Feb. 1965, pp. 57-66.
28. Henson suggest, op. cit., p. 63, that the extent of inter-provincial cooperation is significantly higher in the Atlantic region than in the Canadian prairie provinces.
29. See Herbert F. Quinn, The Union Nationales: A Study in Quebec Nationalism, University of Toronto Press, 1963.
30. See Donald V. Smiley "The Two Themes of Canadian Federalism", XXI Canadian Journal of Economics and Political Science, (Feb. 1965), pp. 80-95.
31. Proceedings, p. 40.
32. The Provincial Finances 1965, Canadian Tax Foundation, Toronto, p. 178.
33. Proceedings, p. 45.
34. Address to the Members of the Montreal Consular Corps. April 12, 1965. Department of Education, Information Service, p. 9.
35. Débats, p. 586.
36. Proceedings, p. 45.
37. Quebec Statistical Yearbook, 1961, p. 62.





## Appendix I

### Specific Proposals for New Institutions of Federal-Provincial Articulation.

In the past few years many recommendations for new institutions and procedures of federal-provincial articulation have been made. Some of these recommendations have been discussed in Chapter 7. This Appendix summarizes the various proposals which have been brought forward.

#### A. Proposal for a Federal-Provincial Secretariat.

At the 1960 Dominion-Provincial Conference the Prime Minister of Quebec proposed that "a permanent Secretariat for federal-provincial conferences be established and that it be financed and administered jointly by the Federal and Provincial Governments". This request was reiterated by Mr. Lesage at the Conference held in November 1963 and he said of this proposed agency and a "permanent Council of Provinces" that "Such institutions have become indispensable. They are probably the only concrete means of avoiding that the provinces be faced with 'faits accomplis' or with unilaterally dictated measures without previous consultation between and among themselves and with the central authority."

The Quebec leader went on to outline several unilateral initiatives which had been taken by the federal government in the past few months in respect to the municipal loan fund, the projected contributory pension and the designation of depressed areas for federal economic assistance. According



to Mr. Lesage's argument, such federal decisions had led to "immense confusion" and an understandable "spine-stiffening by the provinces". In such a situation there was the need for "concrete instruments of action" for permanent federal-provincial consultation and coordination. The Government of Quebec pressed their request again at the Conference held in July 1965 and reiterated that the proposed machinery "should not be limited to this or that aspect of federal-provincial relations, but should be concerned with over-all policy". However, on this latter occasion the Government expressed its willingness to wait on the findings of the Tax Structure Committee as this matter fell within the Committee's terms of reference.

B. Proposals for New Federal-Provincial Agencies in Economic Policies.

At the Conference of November 1963 Prime Minister Lesage recommended that there be provincial participation in "determining tariff structures, transportation and even the monetary policies of Canada" though "permanent Federal-Provincial organisms instituted for this purpose". Professor Jacques Parizeau has made more detailed suggestions along the same line:

1. The Composition of the Board of Governors of the Bank of Canada be changed so that it would be "a group of official appointees of the federal government and the provinces". In Parizeau's terms this would make it easier for the Bank to "consult the two levels of government and to have monetary





policies understood by the provincial authorities". He also pointed out that such a device might aid in more effective debt-management by the Bank in the circumstances where an increasing proportion of the total public debt is held by the junior governments. Although the Bank has the authority under this law to deal in provincial bonds it has refrained from doing so and although there have been pressures for it to change this policy the Bank might under the existing structure "lose a good part of its moral authority if it decided unilaterally where help is most wanted and which province should be helped". A reconstituted Board of Governors would help to overcome this difficulty.

2. A federal-provincial committee on commercial policy might be constituted "possibly alongside the Tariff Board". This committee might "at least in the first stages" perform "a purely consultative role, but where clearing of federal intentions and regional constraints could proceed on an ad hoc basis". Parizeau pointed out that in his previous (1964) Budget Speech the federal Minister of Finance had stated that whenever in international commercial negotiations the interests of one region were affected Canadian officials would see to it that compensating advantages for the same region would also be negotiated. Parizeau argued, however, that this was a less effective way of providing an outlet for regional interests than federal-provincial machinery specially charged with responsibilities in commercial matters.



C. Saskatchewan's Proposals for Federal-Provincial  
Coordination in Fiscal Policy.

The Saskatchewan Government at the 1955, 1957 and 1960 Federal-Provincial Conferences recommended more institutionalized inter-governmental machinery for research, consultation and planning in respect to fiscal policy. In its Brief to the Royal Commission on Banking and Finance in March 1962 the Government recommended that "a permanent committee of Ministers of Finance and Provincial Treasurers be established, to meet at least once annually for the purpose of reviewing the needs of the economy and the financial policies suggested by economic trends". This body would gather early in December of each year at about the time when the governments were making their major budgetary decisions and would review the current economic situation and consider the impact of actual and projected public expenditures on these trends. Such meetings would not only influence the federal and provincial governments in their financial policies but would result in joint "federal-provincial counter-cyclical programs and projects" for which the federal authorities would provide financial assistance.

D. Professor Sabourin's Proposal for a Federal-  
Provincial Agency in External Affairs.

In a paper to the annual conference of the Canadian Bar Association in September 1965 Professor Louis Sabourin of the University of Ottawa proposed that "a permanent office" be set up to coordinate the policies of the federal and provincial governments in international affairs. This agency would have the following roles:





"Firstly, it would be a clearing-house dealing with all sorts of international information useful to the provinces. It could facilitate the implementation in Canada of many multi-lateral conventions which Canada has not signed because these treaties were and are within the constitutional jurisdiction of the provinces.

Secondly, it would coordinate the actions of both the federal and provincial governments, giving to both of them some sort of 'droit de regard' on each others actions on the international scene, where it is a matter which is constitutionally given to the provinces. Naturally the provinces cannot pretend to any 'droit de regard' on the federal government when Ottawa is operating within its own field of jurisdiction."

E. The Porter Commission's Proposal for Fiscal Coordination.

The Royal Commission on Banking and Finance which reported to the Government of Canada in 1964 proposed a revival of the continuing Committee of Ministers of Finance and Provincial Treasurers and enlarging the terms of reference of this group to include coordination of the fiscal policies of the federal, provincial and local governments. This recommendation was based on the following judgement of the Commission (p. 520).



"In recent years when credit conditions have altered significantly, the capital expenditures of provinces and municipalities have not been influenced enough to give us any confidence that monetary and debt policies provide an effective means of adjusting the capital expenditure programs of the provinces and municipalities to the needs of economic stabilization. What is needed is a more direct and more effective method of coordination."

The Commission's viewpoint was that in such coordination federal influence would most appropriately be used to influence the timing and amount of provincial and municipal capital expenditure programmes rather than their direction.

F. The O'Hearn Proposal for a Fiscal Council.

In his proposed draft Constitution Peter J.T. O'Hearn proposed a body under the following terms:

"5. The Federal Council shall consist of Delegates of the Governments in Canada. Each Provincial Government shall appoint one Delegate and the Government of Canada shall appoint Delegates not exceeding in Number the Provincial Delegates. The Chairman shall be elected from the Delegates of the Government of Canada and the Council shall meet at the Call of the Chairman or of any Five Delegates. The Council may make a binding Allocation between the Government of Canada on the one Hand, and the Governments of the Provinces, on the other Hand, for any period not exceeding Ten Years, of the Powers to tax and borrow and may determine the Limits of Rates or Amounts that shall apply to the Allocation; but to do so a Majority of the Delegates of the Government of Canada and a Majority of the Delegates of the Provincial Governments, representing a Majority of the Population of Canada according to the latest general Census, must concur."

(Peace, Order and Good Government, Macmillan of Canada, 1964, p. 45).





G. The Faribault-Fowler Proposals.

In their 1965 book Ten to One: The Confederation Wager Marcel Faribault and Robert M. Fowler propose a draft Constitution for Canada which would for three federal-provincial organizations each directed by a body of twelve persons - four appointed by the federal government and two each by the following provinces or groups of provinces: the four Atlantic provinces, Quebec, Ontario and the four western provinces.

1. The fiscal commission would be charged with:

- "(a) To make recommendations to the federal and provincial governments regarding the best means of making taxation as equal as possible across Canada while allotting to each such government the proceeds of taxation more closely connected with its legislative authority and required for the discharge of its responsibility;
- (b) To promote efficiency and economy in the levying, collecting, and allotment of taxes across Canada, notably by the avoidance of duplication, the simplification of taxpayer's returns and the improvement of accounting, remitting, and controlling procedures;



- (c) To recommend all measures of reciprocity with other countries in fiscal matters;
- (d) To act as an autonomous agency of the Canadian governments on such matters as they may entrust to it."

Further "the statute, regulations and by-laws of the commission are determined by protocol between the federal government and the provinces by a three-fourth majority of the latter".

2. The Economic Development Bank would have the following purposes:

- "(a) to aid in the economic development of such regions of Canada where the standard of living is abnormally low or where there exists serious underemployment;
- (b) to remedy a serious disturbance of the economy of any one province, whether by reason of a natural calamity or other extraordinary and unforeseen events;
- (c) to aid in the execution of important projects common to two or more provinces and which, by reason of their size, location, or nature, cannot be entirely or equitably financed by the various means available in the said provinces."





3. The Economic and Social Council would be charged with:

"the gathering, study, and transmission to all Canadian governments and other concerned bodies of the information available at any time on the general trend of the Canadian economy, its medium and long term prospects, its productivity, and the rate of its growth, as well as on the comparative growth of the several Canadian provinces, the improvement of the standard of living in their several regions and the general betterment of social relationships in Canada."

Faribault and Fowler also wrote into their draft Constitution changes in the existing workings of the Bank of Canada. The Bank would be charged to carry on "regular consultations with the competent services of both the federal government and the provinces". It would also be empowered to act as fiscal agent of the provinces who so requested and "grant provinces short-term advances or loans, discount or purchase their treasury bills, purchase and discount their bonds". The powers of the Bank to "sustain the market of securities issued or guaranteed by such provinces" would be exercised with the assent of the federal Minister of Finance.





# MEMORANDUM

CLASSIFICATION

TO  
A

A. D. Dunton  
J.-L. Gagnon  
Royce Frith ✓

YOUR FILE No.  
Votre dossier

.c.c. Léon Dion

OUR FILE No.  
Notre dossier

FROM  
De

Peter C. Findlay

DATE December 9, 68.

OLD

SUBJECT  
Sujet

Professor Dion suggests that we re-read chapters 7 and 8 of Professor Smiley's research report, "Public Policy and Canadian Federalism".

These chapters were elaborated further by Professor Smiley at the Commission's request, after the main body of his work was completed. They are respectively titled "Devices of Articulation: the Theory and Practice of Cooperative Federalism", and "Cooperative Federalism: An Evaluation". I have taken the liberty of retrieving your copies from your offices and attaching them to this memo to facilitate your reading.

Professor Dion feels they may be useful in our proposed discussion this Thursday on a potential final volume.

*Peter Findlay*









